

Incarceration Mortensen had conducted himself as a model prisoner.

Attorney C. B. Stewart told a long and eloquent plea for a commutation of sentence. It was his first appearance in the case for many months. Since the conclusion of the trial, his brother, B. J. Stewart, had attended to the active work in the courts.

He prefaced his remarks with the assertion that Mortensen and Hay had always been good, personable friends up to the time of the crime, that before that time the condemned man had never been accused of any offense, always conducting himself as a law-abiding citizen. Touching upon the prejudice against Mortensen, Attorney Stewart said in substance:

Strong Public Prejudice.

"You all know that when a man is suspected of crime and public prejudice is so strong against him, as it was in this case, he cannot bear himself up and overcome such prejudice. He may make statements which are not wholly true when pressed by officials, as he was, who were anxious to fasten this crime upon someone. In this case the evidence was wholly circumstantial. It is said that circumstances never lie, yet witnesses who testified as to those circumstances may lie and misrepresent the facts."

Facts in relation to the case as shown by the evidence were then related at length by the attorney. He touched upon the visit of Hay to Mortensen the fatal night, adding that what occurred there is not known excepting from admissions made by the defendant after his arrest to the officers.

Attorney Stewart was interrupted at that point by Associate Justice Bartch, who said in substance:

"Was it not within the power of the defense to make clear what occurred at the house that night? Mortensen and his wife are living witnesses to what occurred."

The attorney replied in substance that Mortensen did not take the stand in his own behalf, not thinking it necessary, and that his wife did not testify, either.

Question of Money.

"Let me ask you another question," interpolated Chief Justice Baskin. "Wasn't it in the power of the defense to show that defendant had collected the money with which to pay the note?"

The explanation by Attorney Stewart was to the effect that Mortensen's books were in such condition that he could not have proven the money in hand without sending for a number of witnesses, some of whom were not in the state at the time of the trial. He did not think the state was proving its case, and did not think it necessary to send for the witnesses.

While relating the evidence adduced during the trial, the attorney gradually led up to the revelation accusation of James Sharp, wherein he accused Mortensen of killing his son-in-law. In reply to the often-repeated assertion that Mortensen did not dare deny the allegation, the attorney said:

"An honest man would pay no attention to the charge made under such circumstances. If, after the body had been found and Mr. Sharp had again accused Mortensen of the crime, Mortensen had said, 'you lie, I am innocent of the crime,' they would have choked him because all those people knew Mr. Sharp's feelings at that time. Against the police and notifying them of the finding of Hay's body, that of a guilty man? I contend that that is a lie."

Brother Gives Testimony.

A little further along in his argument Attorney Stewart was interrupted by Associate Justice Bartch. He asked for an explanation of Mortensen's statement that he was digging up Hay's body was the only show he had, when, according to the testimony adduced in court, there was another found upon the condemned man's premises. The blade of which fitted the prints found in the grave.

Henry Mortensen, brother of the defendant, can explain that matter if the board will permit him to do so," replied the attorney.

The brother was given the privilege. He said:

"Mr. Court had the long handled shovel and had been using it in mixing mortar. He washed it off and returned it to the barn afterwards. That is how it came there. Mr. Court is in the city now and will tell you the same thing if you will send for him."

Replying to a question by one of the members of the board, Attorney Stewart said that that was the first time he had heard of it; that he had known that fact before, it would have been brought out during the progress of the trial.

Last Will Be First.

At that juncture the pleading attorney used the Hay's murder case as a comparison. That man was pardoned even after it was shown that some of the evidence given in court in behalf of the defendant was false. The attorney said that no one had yet ventured to make the assertion that any of the testimony given in the Mortensen case, in his own behalf, had been other than the absolute truth.

Touching upon the allegation that Mortensen had been trying to delay his execution by grasping at legal technicalities, Attorney Stewart said:

"Go out to the state prison and you will find five condemned prisoners. Peter Mortensen was the last to be sentenced and will be the first to be executed should the judgment of the court be carried out next Friday. I ask you, gentlemen, to consider the board, to read the dissenting opinion of Judge Mortensen, and consider it carefully and then determine whether or not Peter Mortensen has had a fair trial."

Young Cited to Appear.

In conclusion, Attorney Stewart touched upon the public prejudice against the prisoner. He said that after Mortensen had been taken to the penitentiary a newspaper man went out to see him, but was denied admission. Although he did not see the condemned man, he went back to his desk and wrote a column interview, which was false from beginning to end. The attorney said that if the board would commute the sentence to life imprisonment, within the next two years the defendant would be able to prove his innocence and clear his name of the foul crime of which he had been illegally convicted.

He said that either that afternoon or Monday he would file with the state supreme court a petition for a rehearing on the second appeal. He had made an attempt to secure signatures to a petition asking for a commutation of sentence, but could get no signers. The attorney then asked that Royal B. Young be cited to appear before the board and give testimony which Judge Morse had refused to admit when a motion for a new trial in the district court was argued.

A motion to compel Mr. Young to appear was put by Governor Wells and carried. While an officer was sent for him, Attorney General Breeden asked that District Attorney Elchorn be heard against commuting the sentence.

Firm in His Convictions.

The prosecutor stated in a very few words that the evidence adduced at the trial was conclusive, from a circumstantial point of view, that Mortensen killed Hay. He stated that several jurors said the case hung upon the ability of Mortensen to prove that he had the \$3,000 to give Hay, and that as he did not prove the existence of that sum they voted for guilty.

When District Attorney Elchorn had concluded Mr. Young, who had come in in the meantime, was put upon the stand. He was asked to tell what happened while he was acting as special officer of the court, and had the jury in charge while they viewed the premises.

"When we got off the car at Simpson avenue," said the witness, "we started toward the east, and I pointed out

Peter Mortensen's house. Then one of them asked me where Hay's house was. I pointed that out to them, then Mr. Barlow, a juror, started to step off the distance between the two houses. Several of them asked me if they could go into Mortensen's house. I said I did not know, but I would find out. I went in and saw Mrs. Henry Mortensen. If they could come in the house, she said they could. We all went in and the jurors asked which room they were supposed to be in when they counted the money. I did not know so I asked Mrs. Mortensen. She told me which room it was and we went in.

Describes Jury's Action.

"Then we went down in the cellar, when I was asked which wall the jars of money were supposed to be on. I told them I supposed it was the one which one of the jurors had pointed out. One of them went to the east wall and stood up on a keg and looked on the wall."

"We then went out and went down to the intersection of the railroad and street car tracks. One of the jurors started to measure off a distance down the railroad track, when another one called to him that he was going the wrong direction, that it was the other side of the street car tracks where Mortensen was standing when he was seen by Mortensen Allen. The juror then came back and measured off the distance in the right direction. The jurors and myself then went down the track to where the blood was, and I showed them where the blood spots were."

In answer to questions I told them of the tracks leading to and from the grave, and showed them where the body was supposed to have been put over the fence. I did tell them that the grave was a little different than what it was when the body was found. I told them what Mortensen said to me when the body was found. Peter Mortensen stooped over Hay's body and said: 'Mumie, he has been roughly handled.'

Commutation Is Refused.

The members of the board questioned Mr. Young very closely relative to his conduct while with the jury. He stoutly maintained that he did not volunteer any information, simply answering any question which was asked of him. When the members of the board had asked him all the questions they desired, Mr. Young was cross-questioned by District Attorney Elchorn.

When he had been excused, the board went into executive session. It was then 1:55 o'clock. At 2:45 o'clock the session ended, the clerk making the formal announcement that the board had refused the petition for a commutation of the death sentence to that of life imprisonment.

IRRIGATION CANAL RUINOUS

Novel Contention of Toltec Company Against Utah Sugar Company.

The novel contention that an irrigation canal has rendered agricultural land worthless, is made the basis for a suit that was yesterday filed in the district court.

The complainant is the Toltec Ranch company, a California corporation, against the Utah Sugar company. Because of the alleged fact that an artificial canal belonging to the defendant, permitted alkali and other injurious chemicals to seep through in solution onto the lands of the plaintiff, the latter asks for \$15,000 damages.

According to the complaint, the canal runs through Box Elder and Cache counties. The water is taken from the creek, and is said to be sufficient to irrigate about 40,000 acres. The Toltec company, which controls a great deal of land in that section of the state, maintains that the beneficial chemicals held in solution by the water in the canal have seeped and percolated through the sides and floor of the waterway to such an extent that two parcels of heretofore valuable agricultural land, aggregating 320 acres in area, have been rendered worthless.

A part of the same action is an application by the Toltec company for \$2,500 from the sugar company for the alleged theft of rock, cement, gravel and sand from the property of the plaintiff in Box Elder county. The complaint charges that the defendant has entered upon the land of the plaintiff and removed and appropriated to its own use a large quantity of material which is appraised in value at 25 cents per ton.

BOOKS FOR THE LIBRARY.

The following thirty-five volumes will be placed upon the shelves of the public library Monday morning, Nov. 15, 1903:

Miscellaneous.

Abbott—"Tale of a Tour in Macedonia."

Bernard—"Tools and Machines."

Bennett—"Downfall of the Derivatives."

Chambers—"Samoa Uta."

Dyer—"Gladstone, the Lake of Grace."

Fitzgerald—"Bozland: Dickens' Places and People."

Fitzgerald—"Good Queen Charlotte."

Gorst—"China."

Library of Useful Stories.

Burns—"Story of the Potter."

Chambers—"Story of the Weather."

Frankland—"Story of the Euclid."

Muir—"Story of the Chemical Elements."

Muir—"Story of the Wanderings of Atoms."

Price—"Story of Religions."

Pycroft—"Story of Bird Life."

Pycroft—"Story of Forest and Stream."

Ryland—"Story of Thought and Feeling."

Michelson—"Light Waves and Their Uses."

Pellew—"Woman and the Commonwealth."

Sedgwick—"Essays on Great Writers."

Smith—"Temperate Chile."

Watkins—"Diagnosis of Means of the Blood."

Weissenborn—"Homeric Life."

Working Glossary of Theosophical Literature.

Fiction.

Adams—"John Bull."

Deland—"Dr. Lavender's People."

Dixon—"Old Woman."

Dunbar—"The Old Plantation Days."

Fernald—"Under the Jack-staff."

Langston—"Harvesters."

Lessing—"Children of Men."

Smith—"Colonel Carter's Christmas."

Whiting—"Yellow Van."

ADDRESS ON SOCIALISM.

This afternoon at 3 o'clock Joseph Gilbert, head of the Socialists headquarters, 33 South Main street. His subject will be, "Socialism and Social Justice." The hall has been thoroughly decorated and heating apparatus added, which makes the headquarters a very comfortable place in which to spend a pleasant hour or two. Today's lecture is the first of a series of talks Mr. Gilbert intends to deliver during the winter, and as he has complete control of the subject that he has made a life study of, he will be able to well repay those who attend his lectures. Everybody are invited to attend.

KOLITZ EXCURSION.

Sunday, Nov. 15.

To Ogden, via Oregon Short Line. Round trip, \$1. Leave Salt Lake 9:45 a. m. Returning, leave Ogden 7:15 p. m.

On Exhibition.

\$350.00 Graflex Camera. The finest \$57 amateur camera ever made.

WARWICK PHOTO SUPPLY CO.

Eat Royal bread. It is pure and wholesome. Sold everywhere.

HODGE MURDER CASE CONTINUED

Judge Morse Advances It to January Term of Court.

STATE MADE NO RESISTANCE

MOSE KIFFORD FACES BAR OF JUSTICE NOV. 30.

Another continuance was granted yesterday in the Aurora Hod case by Judge Charles W. Morse in the criminal division of the district court. This time it goes over until the January term. The motion to advance the case was made by Judge C. F. Loofbourrow, her attorney. It was not resisted by District Attorney Dennis C. Elchorn.

The last time the case came up before Judge Morse it was set for trial on Monday, Nov. 30. After it had been continued yesterday, the court set the Mose Kifford murder case for that date. The latter is accused of shooting and killing "Bad Alie" Harvey on Franklin avenue, and Mrs. Hodge is accused of murdering William X. Ryan last July at a point near Murray. She surrendered to the Detroit, Mich., authorities, and was brought back to Salt Lake City by Sheriff C. Frank Emery.

Seven Criminal Cases Set.

The other criminal cases set yesterday morning by Judge Morse follow: John C. Burns and Joseph Gordon, robbery; Monday, Nov. 23.

Edna Spates, assault with a deadly weapon with intent to do bodily harm; Tuesday, Nov. 24.

C. F. Bray and J. E. Shaffer, selling adulterated milk; Wednesday, Nov. 25.

Mitchell Childers, assault with a deadly weapon with intent to do great bodily harm; Wednesday, Nov. 25.

William Moreton, battery and resisting a public officer; Wednesday, Dec. 2.

W. R. Smith, felony; Thursday, Dec. 3.

A. E. Garber, felony, Friday, Dec. 4.

A Long Tale of Woe.

The complaint of Mary Ann Long against John Long, in which she prays for a divorce, is a long recital of alleged abuse and cruelty. The wife alleges that on July 2, 1892, her husband took her "forcibly by the arm and violently pushed her out of the house, where she lived, and told her 'to go away and stay out of and away from their house.' On subsequent occasions she has been driven from the presence of third parties called his wife names and accused her of being unchaste."

The minister counts on the American naval force to deal effectively with any expedition by sea that Colombia may attempt.

Dr. Thomas Herran, the Colombian chargé d'affaires, continues to be without advice from Bogota. The last advice he had was on Nov. 2, when a brief message came announcing the adjournment of congress. Despite this fact on the 14th he kept Bogota closely informed on every action of the Washington government bearing on the isthmian situation.

ORDER REVOKED.

Lands Restored to the Public Domain in Utah.

(Special to The Herald.)

Washington, Nov. 14.—The register and receiver of the general land office today were notified that by direction of the secretary of the interior the order of temporary withdrawal, dated May 7, 1892, is revoked regarding the following described lands covered by that order which were not finally included within the Aquarius forest reserve and these lands are restored to public domain:

Sections 6, 7, 18, 19, 30, 31, township 31 south, range 1 west; sections 6, 7, 18, and 19, township 32 south, range 1 west; sections 19 to 36, both inclusive, township 29 south, ranges 1 and 2 east; sections 19, 29, 31, 29, 30, 31 and 32, township 29 south, range 3 east; sections 1, 2, 3, 4, 5, the north half and south-east quarter of sections 6; sections 10, 11, 12, 13, and 14, township 30 south, range 5 east and township 31 south, both inclusive, and 33, 34, 35 and 36, township 33 south, range 5 east, all of Salt Lake meridian, Utah.

CRANK OR ANARCHIST.

Armed Man Seized in Office of Colorado Governor.

Denver, Colo., Nov. 14.—A man giving his name as John Otto was arrested today at the state house while attempting to obtain access to Governor Peabody's private office. He was armed and it is believed he is making the arrest, that he is the author of half a dozen letters threatening the life of the governor and fixing 3 o'clock this afternoon as the time for carrying out his threat. The governor had submitted the letters to the sheriff's office and Under Sheriff O'Neill and Deputy De Lue were on hand at the appointed time. Shortly afterward Otto appeared and demanded to see the governor. He was seized and after a desperate resistance, was disarmed and lodged in the county jail. He is thought to be a crank or an anarchist.

CARELESS OFFICIAL.

Valise Containing \$260,000 Worth of Railway Securities Stolen.

St. Louis, Mo., Nov. 14.—A special to the Post-Dispatch from Dallas, Tex., says:

President Charles N. Alexander of the Velasco, Brazos & Northern railway, reported to the detective department of the city hall that thieves last night stole a valise from his buggy containing \$260,000 worth of securities of the railroad. The entire detective force of the city is at work on the case. The buggy from which the property was stolen was based on one of the most prominent corners of the business district while President Alexander was in an office consulting with other persons.

IDAHO MAIL CARRIERS.

(Special to The Herald.)

Washington, Nov. 14.—These Idaho mail carriers were appointed today: Emmett, regular, Ralph Womack, substitute, John Womack, regular, regular, Letter A. Harris, substitute, James P. Harris.

Genuine Carter's Little Liver Pills

Must Bear Signature of

Wm. Wood

SEE FACSIMILE WRAPPER BELOW.

THE NEW WILSON

European Hotel, Salt Lake City. 200 rooms, 50 with bath, popular price restaurant. Rates \$1.00 to \$3.00 per day.

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Sold only by Citizens' Coal company. 53 West Second South. Tel. 49.

Modern Plumbing

At moderate prices. George G. Doyle & Co., 211 State street. Phone 162.

Dr. E. M. Keyser's method of filling teeth is painless.

152 1/2 Main street, Auerbach building. Telephone 1120 K.

FEDERATION OF LABOR.

President Gompers Criticized For Extravagance.

Boston, Nov. 14.—The question whether the convention of the American Federation of Labor should appropriate \$1,000 to aid the Western Federation of Miners in their pending strike came up today for a second time when the committee on resolutions reported as a substitute for a previous resolution that sympathy be expressed for the miners of the west and that trades unions throughout the country be requested to tender financial assistance to the Western Federation. The report provoked a discussion in which many of the prominent delegates took part.

President Gompers, speaking from the chair, answered what he termed an "insinuation of extravagance," made by Delegate George E. Vincens of Springfield, who said that it might have been well if some of the money which the executive council had expended in visiting Boston had been expended in an appropriation for the expenses of the committee entirely justifiable, and added:

"The Federation has now many appeals for funds before it. It is not good to give to others who are always coming to you, things you deny to your own family."

A motion that the committee's substitute resolution be amended to provide that \$1,000 be donated at once by the Federation was defeated by a show of hands, but a roll call was demanded and the amended motion was adopted.

The committee on resolutions reported unfavorably on a proposition that "unionists ignore unfair injunctions by any capitalistic judiciary," and advocated "a continuous and united opposition which will render such rulings inoperative and bring them into ridicule."

The report of the committee was concurred in.

VARILLA CALLS ON HAY.

United States Navy Expected to Protect Panama.

Washington, Nov. 14.—Philippe Bunau-Varilla was at the state department today to see what information the officials had regarding the situation on the isthmus. He said he had no anxiety over the dispatches from Guayaquil that a Colombian expedition would endeavor to reach the isthmus.

"It were easier," said the minister, "to march from Cape Town to London than from Bogota to Panama, for the Strait of Gibraltar and the English channel are at least swimmable, while the marshes between the new republic and Colombia are impenetrable."

The minister counts on the American naval force to deal effectively with any expedition by sea that Colombia may attempt.

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Gardner Sunday Store News



Don't buy your Overcoat here for our sake.

Don't buy it here unless it is to your own interest to do so.

Of course we want your trade, but we make it an object for you in the way of extra value.

So, in trading here, the benefit is mutual.

If you are going to buy an Overcoat this season

We want you to have one of our snappy new styles.

And we'll fit you out in the best possible manner, according to the price you wish to pay.

Whether it is \$6.50 or any other price up to \$30.00.

Anywhere within that range of prices you'll find good choosing.

Men's Suits.

There's a showing here that you should see before buying elsewhere.

All the most fashionable fabrics and most popular cuts of the season.

And all are properly priced.

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We'll show you more Underwear and better values for your money than you'll find elsewhere in town. You may think that a strong statement, but a visit to our store will convince you that it is a fact.

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Is what a man EXPECTS for his MONEY. You get it every time you smoke a LEVY FAMOUS CIGAR, and that is what

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Blow for Blow.

"Blow, blow, thou winter wind."

"As You Like It." Act II.

Don't feel blow because the wind blew your windows out. "Phone No. 512 and we will send a gentlemanly glazier to mend your pains.

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We are also agents for Sturtevant Rolls and Crushers.

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Correct in POSE, LIGHTING and every other detail. You see Johnson's photos in the fact. You see Johnson's photos in the fact. You see Johnson's photos in the fact.

Our Lantern slides of Utah and the Mormons are being used by the leading lecturers. In fact, you see Johnson's (Lan. all) all over the world. Crystal clear. Cor. sold by the dozen.

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